

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERK'S OFFICE
2005 MAR 29 P 3:06

DONALD C. HUTCHINS

Plaintiff

v.

CARDIAC SCIENCE, INC

and

COMPLIENT CORPORATION.

Defendants

U.S. DISTRICT COURT
DISTRICT OF MASS.

Civil Action: 04-30126-MAP

**PLAINTIFF'S MEMORANDUM IN ANSWER TO COMPLIENT CORPORATIONS
INSTANTER REPLY BRIEF IN SUPPORT OF MOTION TO DISMISS AND
PLAINTIFF'S AFFIDAVIT TO SUPPORT PERFECTED SERVICE OF PROCESS**

I. INTRODUCTION

On March 3, 2005 Attorney John J. Egan filed Defendant, Compliant Corporation's Motion for Leave to File *Instanter* Reply Brief in Support of Motion to Dismiss Amended Complaint for Failure of Service of Process, along with Compliant Corporations Reply Brief in Support of Motion to Dismiss Amended Complaint for Failure of Service of Process.

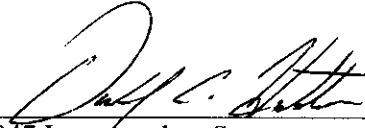
With this *Instanter* Reply Brief Attorney Egan challenges the facts contained in Plaintiff's, Donald C. Hutchins ("Hutchins") Memorandum in Opposition to Compliant's Motion to Dismiss. The sworn testimony contained the attached Affidavit attached herein as Exhibit A, avers the truths contained in Hutchins' Memorandum in Opposition to Compliant's Motion to Dismiss. The Affidavit also asserts that once Steven Lindseth revealed to the Plaintiff his identity as the President of Compliant, that the Service of Process was perfected in compliance with the process procedures practiced in the Northern District of Ohio.

CONCLUSION

The Plaintiff's prays that the sworn testimony contained in the Affidavit of Donald C. Hutchins be accepted by the Court and that the Defendant's Motion to Dismiss be stricken.

The Plaintiff
Donald C. Hutchins, Pro Se

Dated March 29, 2005



1047 Longmeadow Street
Longmeadow, Massachusetts 01106
(413) 567-0606

CERTIFICATE OF SERVICE

I, Richard J. Moriarty, 43 Greenacre Avenue, Longmeadow, Massachusetts 01106, hereby certify that I served a copy of the foregoing on the appropriate parties by sending a copy by registered mail to:

Randall T. Skaar, Esq., Patterson, Thunte, Skaar & Christensen, P.A., 4800 IDS Center, 80 South Eighth St., Minneapolis, MN 55402.

Paul T. Rothschild, Esq., Bacon & Wilson P.C., 33 State Street, Springfield, MA 01103.

John J. Egan, Esq., Egan, Flanagan and Cohen, P.C., 67 Market Street, P.O. Box 9035, Springfield, Massachusetts 01101-9035

Dated: 3/29/05



Richard J. Moriarty

EXHIBIT A

Amended Complaint upon Mr. Lindseth at the address of Axentis LLC., the location where the records of the Compliant Corporation are currently being maintained. See Exhibit B, attached to the Memorandum.

5. A returned receipt signed by JaNette M. Barnett for the certified mail that contained this Amended Complaint is attached to the Memorandum as Exhibit C. This returned receipt stands as proof of perfected service under the procedures prescribed by the Northern District of Ohio.

6. I continue to assert all the facts presented in my Memorandum in Opposition to Compliant's Motion to Dismiss Amended Complaint for Failure of Service of Process. I reiterate that just prior to the time my Opposition was filed that the public record of State of Delaware showed the Compliant Corporation as active, the tax status as delinquent, the Registered Agent as the Corporation Service Company, and the only officers as Mr. Robert Thompson and Mr. Brian Collet.

7. Less than three months ago and only after I filed to bring Compliant into this action, on December 28, 2004, did Compliant file dissolution papers with the State of Delaware as shown in Exhibit D, attached to the Memorandum.

FURTHER AFFIANT SAYETH NAUGHT.


DONALD C. HUTCHINS

Sworn to before me and subscribed in my presence the 29th day of March, 2005



NOTARY PUBLIC
Comm. Exp. 8/11/2011

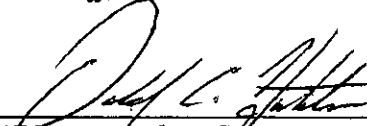
EXHIBIT B

- (i) The infringements, fraud, misappropriation, abuse of process and breach of contract were willful on the part of the Defendants, Cardiac Science Inc. and the Compliant Corporation and continued after notification by Hutchins. That the Defendants contemptuously infringed on Hutchins' intellectual properties with the mistaken belief that Hutchins, as "the little guy," could not afford the legal costs to protect these properties through the federal court system. On any and all Counts that a judgment be entered against the Defendant to increase damages up to three times the damages assessed in accordance Title 35 United States Code, Section 285.

95.) Demand for Trial by Jury.

The Plaintiff, DONALD C. HUTCHINS, Pro Se

Dated: 3/15/05



1047 Longmeadow Street
Longmeadow, Massachusetts 01106
(413) 734-2625
(413) 739-4060 (facsimile)

CERTIFICATE OF SERVICE

I, Richard J. Moriarty, 43 Greenacre Avenue, Longmeadow, Massachusetts 01106, hereby certify that I served copies of the foregoing on the appropriate parties by sending copies by registered mail to the following parties:

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Paul T. Rothschild, Esq., Bacon & Wilson P.C., 33 State Street, Springfield, MA 01103.

John J. Egan, Esq., Egan, Flanagan and Cohen, P.C., 67 Market Street, P.O. Box 9035, Springfield, Massachusetts 01101-9035

Mr. Steven Lindseth, Axentis LLC, 4670 Richmond Rd. Warrensville, Heights, Ohio 44128.

Dated: 3/14/05



Richard J. Moriarty

EXHIBIT C

UNITED STATES POSTAL SERVICE


 First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

- Sender: Please print your name, address, and ZIP+4 in this box •

DONALD C. HUTCHINS
 1047 LONGMEADOW STREET
 LONGMEADOW, MA 01106

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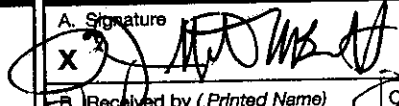
SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Steven Lindseth
 Axentis LLC
 4670 Richmond Rd.
 Warrensville, Heights OH
 44128

COMPLETE THIS SECTION ON DELIVERY

- A. Signature  ☐ Agent
☒ Addressee
- B. Received by (Printed Name) Janette M. Barnett C. Date of Delivery 3/21/05
- D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

7003 3110 0001 1958 1080

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-N-1540

EXHIBIT D

Entity Details

File Number: **2820926** Incorporation Date / **11/13/1997**
Formation Date: (mm/dd/yyyy)
Entity Name: **COMPLIANT CORPORATION**
Entity Kind: **CORPORATION** Entity Type: **GENERAL**
Residency: **DOMESTIC** State: **DE**
Status: **DISSOLVED**

TAX INFORMATION

Last Annual Report Filed: 2004
Annual Tax Assessment: \$ 2,500.00 Tax Due: \$ 0.00
Tax Status: CURRENT Total Authorized Shares: 175,000,000

REGISTERED AGENT INFORMATION

Name: **CORPORATION SERVICE COMPANY**
Address: **2711 CENTERVILLE ROAD SUITE 400**
City: **WILMINGTON** County: **NEW CASTLE**
State: **DE** Postal Code: **19808**
Phone: **(302)636-5401**

FILING HISTORY (Last 5 Filings)

<u>Seq</u>	<u>Document Code</u>	<u>Description</u>	<u>No. of pages</u>	<u>Filing Date (mm/dd/yyyy)</u>	<u>Filing Time</u>	<u>Effective Date (mm/dd/yyyy)</u>
1	00375	Dissolution	2	11/13/2004	11:19	11/28/2004
2	00405	Amendment Domestic	4	11/13/2004	11:08	11/05/2004
3	00405	Amendment Domestic	4	10/15/2003	16:40	10/20/2003
4	00405	Amendment Stock	28	10/15/2003	16:00	10/15/2003
5	00405	Amendment Stock	17	11/11/2001	11:30	12/31/2001

[Back to Entity Search](#)